

Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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Taxation of Amounts Received Through Sales of Abandoned Vehicles

What is the tax liability of towing operators selling abandoned vehicles at public auction?

Chapter 46.55 RCW provides for the removal and storage of abandoned motor vehicles. A "registered disposer," (which is defined to include a tow truck operator) is required to take custody of any vehicle placed in his custody by a law enforcement officer and to remove the vehicle to his established place of business for storage. The law gives the registered disposer a lien upon the vehicle for service provided in towing and storing the vehicle. The registered disposer then requests from the Department of Licensing the name of the vehicle's owner. Notice is mailed to the last known address of the vehicle's owner. The notice states the amount due the registered disposer for services in the towing and storage of the vehicle, and the time and place of public sale.

If the vehicle is not claimed, the registered disposer is authorized to sell it at public auction. The proceeds of sale are used to compensate the registered disposer for the towing and storage charges, and for the cost of the sale. Any excess is divided equally between the county and the state.

RCW 82.04.050 defines "sale at retail" or "retail sale" to include "the sale of or charge made for labor and services rendered in respect to automobile towing." Also included within the statutory definition are amounts received by persons engaging in "automobile parking and storage businesses." Therefore, income received for providing automobile towing, parking, and storage services is subject to the retailing business and occupation (B&O) tax imposed by RCW 82.04.250 and the retail sales tax imposed by RCW 82.08.020.

The sale of an abandoned vehicle at public auction is simply a means of securing payment of the accumulated toward storage charges. Consequently, that portion of the proceeds which compensates the registered disposer for these charges is subject to both retailing B&O tax and retail sales tax.

If the proceeds of the sale exceed the amount necessary to satisfy the lien for towing and storage charges (and the applicable retail sales tax), the excess is first applied to the cost of the sale. The remainder, if any, is divided equally between the county and the state.

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That portion of the proceeds which compensates the registered disposer for the costs of the sale is subject to the service and other activities B&O tax imposed by RCW 82.04.290. That portion of the proceeds which is disbursed to the county and the state is not subject to tax, because the registered disposer is a mere conduit of these funds.

In some instances, however, the proceeds of the sale may not be sufficient to satisfy the lien for towing and storage. In these cases, the entire amount received shall be deemed to be payment for towing and storage plus the applicable retail sales tax. The measure of both the retailing B&O tax and the retail sales tax shall be determined according to the following formula:

measure	=	$\frac{\text{proceeds at auction}}{(1 + \text{applicable sales tax rate})}$
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For example, if total towing and storage expenses are \$200, but only \$100 is received at auction, the measure of the tax in a local jurisdiction with a retail sales tax rate of 7.8% would be computed as follows:

measure	=	$\frac{\$100}{1.078}$	=	\$92.76
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Because the measure of the retail sales tax is only \$92.76, by using this formula the registered disposer in this example is not forced to absorb the retail sales tax. Furthermore, since the measure of the retailing B&O tax is also \$92.76, the registered disposer is not forced to pay B&O tax on that portion of the proceeds at auction which represents retail sales tax.
